

REMARKS

Claims 1-2, 4-5, 10-11, 13-14, 19-23, and 28 are currently pending in the present application, with Claims 3, 6-9, 12, 15-18, and 24-27 being canceled. Reconsideration of the pending claims is respectfully requested.

The Examiner rejected Claims 6-9, 15-18, and 24-27 under 35 U.S.C. § 102(e) as being anticipated by Murakami (U.S. Patent No. 5,523,525). This rejection is moot in view of the canceled claims.

The Examiner rejected Claims 1-2, 4, 5-11, 13-21, and 22-28 under 35 U.S.C. § 103(a) as being unpatentable over Murakami in view of Sawaya et al. (U.S. Patent No. 4,745,621). This rejection is respectfully traversed.

As previously discussed, the present invention is directed to a method and apparatus for efficiently communicating packetized MIDI data and audio data through various kinds of communication network. More specifically, a transfer rate is first estimated in accordance with a communication rate of a communication network, and then the audio data is transmitted, wherein the amount of audio data transferred is controlled based on the estimated transfer rate of the communication network. Also transmitted include media data such as MIDI data and the data amount information indicating amount of data to be transmitted. A receiver then receives the audio data and reproduces the received audio data in accordance with the data amount information received.

As also previously discussed, Murakami, in contrast, is directed to a device for synchronizing musical performance data with video display data, such as synchronizing data outputted from an electronic musical instrument (e.g., an electronic piano) and a video display device (e.g., a television display). More specifically, Murakami discloses a performance recording

and playback apparatus that transmit each bit of performance data, such as MIDI data, in correspondence with a half wavelength of a carrier wave, and reproduces as well as records the MIDI data in synchronization with video data.

As the Examiner acknowledged, Murakami does not contain any disclosure or suggestion of estimating a transfer rate of data in accordance with the communication rate of a communication network. It follows that Murakami also does not teach or suggest controlling the amount of audio data to be transferred in accordance with the estimated communication rate. Rather, Murakami simply teaches transferring MIDI data at the standard MIDI data transfer rate of 31.25 kHz; there is no mention of controlling an amount of data to be transferred based on the estimated rate of communication for a given communication network. Finally, Murakami does not contain any disclosure or suggestion of simultaneously transmitting audio data (the amount of which is controlled), media data other than audio data, and data amount information indicating the amount of audio data transferred.

Sawaya fails to make up for the deficiencies of Murakami. Specifically, Sawaya is directed to obtaining a communication rate of received data. Sawaya does not contain any disclosure or teachings of controlling the amount of audio data to be transferred based on the estimate data transfer rate, and certainly does not disclose or teach transferring all of the audio data, media data other than the audio data, and the data amount information indicating the amount of audio data transferred. Without receiving information pertaining to the amount of audio data transferred, it is not possible to reproduce the audio performance on the receiver end.

Furthermore, the Examiner does not point to any teachings or suggestions in either Sawaya or Murakami that suggests or provides motivation for combining the two references. First, Murakami is directed to a performance recording and playback device, whereas Sawaya is directed

to detecting minimum bit number of received data; there is no subject matter correlation that would motivate the combination of the two references. More importantly, since Murakami teaches using a standard rate of transfer of 31.25 kHz for MIDI data transfer to transfer MIDI data between MIDI compatible devices using MIDI buses, there does not exist any motivation whatsoever for estimating the data rate transfer of a communication network or controlling the amount of audio data to be transferred.

In view of the foregoing, Applicant respectfully submit that that Claims 1-2, 4, 5-11, 13-21, and 22-28 are not anticipated by, nor obvious in view of, Murakami and Sawaya, either alone or combined.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 393032012000. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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